

July 2006

CRIMINAL TAX MANUAL

INDICTMENT AND INFORMATION FORMS

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**Complaint to Toll Statute of Limitations
Under 26 U.S.C. § 6531**

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
 v.)
)
 _____)

COMPLAINT

COMPLAINT FOR VIOLATION OF SECTION 7201 1
INTERNAL REVENUE CODE OF 1986 (26 U.S.C.)

Before [*Magistrate Judge's Name*], United States Magistrate Judge,
[*Judicial District*].

The undersigned complainant, being duly sworn, states:

That he [she] is a Special Agent [*or Revenue Agent*] of the Internal Revenue Service and, in the performance of the duties imposed on him [her] by _____, he [she] has conducted an investigation of the Federal income tax liability of [*Defendant's Name*] of [*City*], [*State*], for the calendar year 2 20__, by examining the said taxpayer's tax return for the calendar year 2 20__, and other years; [*e.g., by examination and audit of the said taxpayer's business and financial books and records; by identifying and interviewing third parties with whom the said taxpayer did business; by consulting public and private records reflecting the said taxpayer's income; and/or by interviewing third persons having knowledge of the said taxpayer's financial condition.*] 3

That based on the aforesaid investigation, the complainant has personal knowledge that on or about the ____ day of _____, 20__, at [*City*], [*State*] in the _____ District of _____, [*Defendant's Name*] did unlawfully and willfully attempt to evade and defeat the income taxes due and owing by him [her] 1 to the United States of America for the calendar year 2 20__, by preparing and causing to be prepared, and by signing and causing to be signed in the _____ District of _____, a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service, wherein he [she] stated that his [her] taxable 4 [*or adjusted gross*] income for the calendar year 2 20__ was \$____, and that the amount of tax due and owing thereon was the sum of \$____, when in fact his [her] taxable 4 [*or adjusted gross*] income for the said

calendar year **2** was the sum of \$____, upon which said taxable **4** [*or adjusted gross*] income he [she] owed to the United States of America an income tax of \$_____.

5
Title of Subscribing Internal
Revenue Service Officer

Sworn to before me and subscribed in my presence, this ____day of _____,
20__.

United States Magistrate

NOTES

- 1** When drafting complaints for violation of other Sections of the Internal Revenue Code, refer to the appropriate indictment form as a guide.
- 2** If fiscal year is involved, substitute "fiscal year ended _____, 20__".
- 3** The bracketed descriptions of the kinds of investigation conducted by the subscribing agent may all be used if they correctly reflect the facts. Otherwise, the inapposite description(s) should, of course, be deleted. When appropriate, the description of a different investigative course should be added or substituted based on the facts. See *Jaben v. United States*, 381 U.S. 214 (1965).
- 4** Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.
- 5** To be sworn to by an Internal Revenue Service Officer having knowledge of the facts.

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20_".

2 When appropriate, substitute "by filing and causing to be filed with the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*]".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, his [her] taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), cert. denied, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20_".

2 Where venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, his [her] taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Joint Return
Attempt to Evade and Defeat Tax
Venue in District of Filing

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
 v.) No. _____
) 26 U.S.C., § 7201
_____)

The grand jury charges:

That on or about the _____ day of _____, 20__, in the _____ District of _____ **[Defendant's Name]**, a resident of **[City]**, **[State]**, who during the calendar year **1** 20__ was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] and his [her] spouse to the United States of America for the calendar year **1** 20__ , by filing and causing to be filed with the Director, Internal Revenue Service Center, at **[City]**, **[State]**, **2** a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself [herself] and his [her] spouse, wherein it was stated that their joint taxable income **3** for said calendar year **1** was the sum of \$_____, and that the amount of tax due and owing thereon was the sum of \$_____, whereas, as he [she] then and there well knew and believed, their joint taxable income **3** for the said calendar year **1** was the sum of \$_____, upon which said joint taxable income **3** there was owing to the United States of America an income tax of \$_____. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

2 When appropriate, substitute "with the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*]".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, their joint taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional joint taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), cert. denied, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Joint Return
Attempt to Evade and Defeat Tax
Venue in District of Preparation

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
26 U.S.C., § 7201

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [Defendant's Name], a resident of [City], [State], who during the calendar year 1 20__ was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] and his [her] spouse to the United States of America for the calendar year 1 20__, by preparing and causing to be prepared, and by signing and causing to be signed, 2 a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself [herself] and his [her] spouse, which was filed with the Internal Revenue Service, wherein it was stated that their joint taxable income 3 for said calendar year 1 was the sum of \$____, and that the amount of tax due and owing thereon was the sum of \$____, whereas, as he [she] then and there well knew and believed, their joint taxable income 3 for the said calendar year 1 was the sum of \$____, upon which said joint taxable income 3 there was owing to the United States of America an income tax of \$___. 4

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

2 If venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, their joint taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional joint taxable income a substantial additional tax was due and owing to the United States of America." See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Community Property Return
Attempt to Evade and Defeat Tax

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
 v.) No. _____
) 26 U.S.C., § 7201
_____)

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] to the United States of America for the calendar year 1 20__, by preparing and causing to be prepared, and by signing and causing to be signed, 2 a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service, wherein he [she] stated that his [her] taxable income 3 for said calendar year, 1 computed on the community property basis, was the sum of \$_____, and that the amount of tax due and owing thereon was the sum of \$_____, whereas, as he [she] then and there well knew and believed, his [her] taxable income 3 for the said calendar year 1, computed on the community property basis, was the sum of \$_____, upon which said taxable income 3 there was owing to the United States of America an income tax of \$_____. 4

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

2 If venue is to be placed in the judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, his [her] taxable income for the said calendar year, computed on the community property basis, was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

2 If venue is to be placed in the judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".

3 Forms 1040 for some years do not use the phrase "taxable income" or "tax table income". However, what constitutes taxable income, as defined in 26 U.S.C., § 63, is actually computed on the appropriate line of the return. That line may vary and the line on the return showing the amount on which the actual tax was computed should be used.

4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] then and there well knew and believed, the taxable income of [*Name of Spouse*] for the said calendar year, computed on the community property basis, was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Individual - Attempt to Evade and Defeat Tax
Acts Subsequent to Filing
United States v. Beacon Brass Co., Inc., 344 U.S. 43 (1952)

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
 v.) No. _____
) 26 U.S.C., § 7201
_____)

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully attempt to evade and defeat a large part of the income tax due and owing by him [her] to the United States of America for the calendar year 1 20__, by [*Describe Act or Acts, e.g., Filing False Financial Statement, or Making False Statements or Representations to Employees of the Internal Revenue Service, etc. See Spies v. United States, 317 U.S. 492 (1943)*], for the purpose of concealing additional unreported taxable income received by [*Defendant's Name*] during the said calendar year 1, on which said unreported taxable income, as he [she] then and there well knew and believed, there was due and owing to the United States of America an income tax of \$_____ [*Insert Amount of Tax Deficiency, Not Total Tax*]. 2

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

2 If it is determined that unreported tax is not to be numerically alleged in the indictment, then delete "an income tax of \$____." and substitute "a substantial additional tax". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
*Individual - Spies Evasion, No Return Filed
Attempt to Evade and Defeat Tax, Affirmative Acts,
Spies v. United States, 317 U.S. 492 (1943)*

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) No. _____
) 26 U.S.C., § 7201
)
)

The grand jury charges:

That during the calendar year 1 20__, [*Defendant's Name*], a resident of [*City*], [*State*], had and received taxable income 2 in the sum of \$____; that upon said taxable income 2 there was owing to the United States of America an income tax of \$____; that well-knowing and believing the foregoing facts, [*Defendant's Name*] , on or about April 15, 20__, 3 in the _____ District of _____, did willfully attempt to evade and defeat the said income tax due and owing by him [*her*] to the United States of America for said calendar year 1 by failing to make an income tax return on or before April 15, 19__, 3 as required by law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said income tax, and by [*set forth the affirmative act(s) of evasion, such as concealing and attempting to conceal from all proper officers of the United States of America his [her] true and correct income*]. 4

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__." Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C. § 6072(a).

2 For definition of taxable income, *see* 26 U.S.C., § 63. Note also 26 U.S.C. § 61, *et seq.*

3 Note that if April 15th fell on a Saturday, Sunday, or legal holiday, the filing date to charge in the indictment would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. Note also that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

4 *See Spies v. United States*, 317 U.S. 492, 499 (1943).

26 U.S.C. § 7201
Individual - Spies Evasion (No Return Filed)
Attempt to Evade and Defeat Tax
Husband and Wife Codefendants - Community Property

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
) 26 U.S.C., § 7201
_____)

The grand jury charges:

That during the calendar year 1 20__, the defendants [Husband's Name] and [Wife's Name], who were husband and wife, and who were residents of [City], [State], had and received taxable income, 2 computed on the community property basis, in the sum of \$_____ and \$_____, respectively; that upon said taxable income 2 there was owing to the United States of America by each defendant an income tax of \$____ and \$____, 3 respectively; that well-knowing and believing the foregoing facts, [Husband's Name] and [Wife's Name], on or about April 15, 19__, 4 in the _____ District of _____, did willfully attempt to evade and defeat the said income tax due and owing 5 by each of them to the United States of America for said calendar year 1 by failing to make separate individual income tax returns or a joint individual income tax return on or before April 15, 20__, 4 as required by law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said income taxes, and by [Set Forth the Affirmative Act(s) of Evasion Done by or on Behalf of Each Defendant, Such as Concealing and Attempting to Conceal from all Proper Officers of the United States of America his [her] [their] True and Correct Income; See Spies v. United States, 317 U.S. 492, 499 (1943)].

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

- 1** If fiscal year is involved, substitute "fiscal year ended _____, 20__". Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C., § 6072(a).
- 2** For definition of taxable income, *see* 26 U.S.C., § 63. Note also 26 U.S.C., Secs. 61, *et seq.*
- 3** Include total tax liability, without regard to wage withholding.
- 4** Note that if April 15th fell on a Saturday, Sunday, or legal holiday, the filing date to charge in the indictment would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. Note also that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.
- 5** If there has been income tax withholding, add before "said income tax", either "a substantial part of", or "a large part of", or "a part of" or "a portion of."
- 6** This form, with bracketed wording "concealing and attempting to conceal," was approved in *United States v. Edwards*, 777 F.2d 644, 650 (11th Cir. 1985), *cert. denied*, 475 U.S. 1123 (1986); *see also*, *United States v. Nelson*, 791 F.2d 336, 338 n.3 (5th Cir. 1986), for list of cases approving underlined language of concealment.

NOTES

1 The Seventh Circuit has held that an indictment may use the April 15 return due date, even though not all the acts of evasion of payment occurred on that date. See *United States v. Conley*, 826 F.2d 551, 558-559 (7th Cir. 1987). Moreover, the "attempt" may consist of a course of conduct. If so, substitute "on or about the ___ day of _____, 20___, and continuing to _____".

2 If fiscal year is involved, substitute "fiscal year ended _____, 20__"; if more than one year's tax is involved, substitute "for the years _____ through _____".

26 U.S.C. § 7201
Corporation, Officer, or Employee - Corporate Return
Attempt to Evade and Defeat Corporate Tax

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7201

)

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], **1** who was the [*Position Held in Corp.*] of [*Name of Corporation*], a corporation, did willfully attempt to evade and defeat a large part of the income tax due and owing by the said corporation to the United States of America for the calendar year **2** 20__, by preparing and causing to be prepared, and by signing and causing to be signed, **3** a false and fraudulent U.S. Corporation Income Tax Return, Form 1120, which was filed with the Internal Revenue Service on behalf of said corporation, wherein it was reported that the taxable income of said corporation for the said calendar year **2** was the sum of \$____, and that the total amount of tax due and owing thereon was the sum of \$____, whereas, as he [she] [it] then and there well knew and believed, the taxable income of [*Name of Corporation*] for the calendar year **2** 20__, was the sum of \$____, upon which taxable income there was due and owing to the United States of America a total tax of \$____. **4**

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

- 1 If the corporation is named as the defendant, substitute the name of the corporation.
- 2 If fiscal year is involved, substitute "fiscal year ended _____, 20__".
- 3 If venue is to be placed in the judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote 2. If venue is based on mailing, substitute "by mailing and causing to be mailed".
- 4 If it is determined that unreported income and tax are not to be numerically alleged in the indictment, then substitute "whereas, as he [she] [it] then and there well knew and believed, the taxable income of the said corporation for the said calendar year was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

July 2006

26 U.S.C. § 7201

26 U.S.C. § 7201
Corporation - Attempt to Evade and Defeat Corporate Tax
Acts Subsequent to Filing
United States v. Beacon Brass Co., 344 U.S. 43 (1952)

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v.)
))
)) No. _____
)) 26 U.S.C., § 7201

)

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [**Defendant's Name**] 1 who was the [**Position Held in Corp.**] of [**Name of Corporation**], a corporation, did willfully attempt to evade and defeat a large part of the income tax due and owing by the said corporation to the United States of America for the calendar year 2 20__, by [**Describe Act or Acts; e.g., Filing False Financial Statement, Making False Statements and Representations to Employees of the Internal Revenue Service, etc. See Spies v. United States, 317 U.S. 492 (1943)**], for the purpose of concealing additional unreported taxable income received by said corporation during the said calendar year 2, on which said unreported taxable income, as he [she] [it] then and there well knew and believed, there was due and owing to the United States of America an income tax of \$ _____. [**Insert Amount of Corporation's Tax Deficiency, Not Total Tax**]. 3

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

- 1 If the corporation is named as the defendant, substitute the name of the corporation.
- 2 If fiscal year is involved, substitute "fiscal year ended _____, 20__".
- 3 If it is determined that unreported tax is not to be numerically alleged in the indictment, then delete "an income tax of \$____", and substitute "a substantial additional tax". See *United States v. Citron*, 783 F.2d 307, 314-15 (2d Cir. 1986); *United States v. Buckner*, 610 F.2d 570, 573 (9th Cir. 1979), *cert. denied*, 445 U.S. 961 (1980). Note, however, that the Ninth Circuit has ruled that a "substantial" additional tax is not required; all that is required in that circuit is some additional tax. *United States v. Marashi*, 913 F.2d 724, 736 (9th Cir. 1990).

26 U.S.C. § 7201
Sole Proprietorship or Partnership
Employer's Quarterly Return
Attempt to Evade and Defeat
Federal Withholding and F.I.C.A. (Social Security Taxes)

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
_____) 26 U.S.C., § 7201

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [Defendant's Name], a resident of [City], [State], who conducted a business 1 as a [Sole Proprietorship or Partnership] under the name and style of _____, with its principal place of business in [City], [State], did willfully attempt to evade and defeat a large part of the federal income taxes withheld from wages and Federal Insurance Contributions Act taxes due and owing to the United States of America for the quarter ending _____, 20__, by preparing and causing to be prepared, and by signing and causing to be signed, 2 a false and fraudulent Employer's Quarterly Federal Tax Return, Form 941, which was filed with the Internal Revenue Service, wherein it was stated that the total wages subject to withholding paid to employees by [Name of Business] for the said quarter was the sum of \$____, and that the total amount of federal income tax withheld and social security taxes due and owing thereon was the sum of \$____, whereas, as he [she] [it] then and there well knew and believed, the total wages subject to withholding paid to employees for said quarter was the sum of \$____, upon which wages there were due and owing to the United States of America federal income taxes withheld from wages and social security taxes in the total amount of \$_____.

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If employer is a corporation, refer to Forms - 25 as a guide in charging appropriate corporate officials with an offense involving violation of a corporation's obligations under the law.

2 If venue is to be placed in judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".

26 U.S.C. § 7201
Sole Proprietorship or Partnership - Excise Tax Return
Attempt to Evade and Defeat Excise Tax

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
26 U.S.C., § 7201

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of
_____, [Defendant's Name], 1 a resident of [City], [State], who conducted a retail 2 business
as a [Sole Proprietorship or Partnership] under the name and style of _____, with its principal
place of business in [City], [State], did willfully attempt to evade and defeat a large part of the retail
dealer's 3 excise tax on [Article], imposed by Section _____ of the Internal Revenue Code (Title
26), due and owing to the United States of America for the quarter ending 4 _____, 20__, by
preparing and causing to be prepared, and by signing and causing to be signed, 5 a false and
fraudulent Quarterly Federal Excise Tax Return, 6 which was filed with the Internal Revenue Service
on behalf of said retail 2 business, wherein it was stated that the excise tax due and owing to the
United States of America by reason of the retail 2 sale of [Article] for said quarter 4 was the sum of
\$ _____, whereas, as he [she] [it] then and there well knew and believed, there was due and owing
to the United States of America for the said quarter, 4 retail dealer's 3 excise tax in the sum of \$ ____.

In violation of Title 26, United States Code, Section 7201.

A True Bill.

Foreperson

United States Attorney

NOTES

- 1 If a corporation is named as the defendant, substitute the name of the corporation.
- 2 Designate appropriate business, *e.g.*, manufacturing.
- 3 For other excise taxes, *see* 26 U.S.C., § 4041, *et seq.*
- 4 Designate appropriate period.
- 5 If venue is to be placed in judicial district in which the return was filed, modify this form in accordance with language at Forms - 3 and related Footnote 2. If venue is based on mailing, substitute "by mailing and causing to be mailed".
- 6 Designate appropriate IRS form.

July 2006

26 U.S.C. § 7202

26 U.S.C. § 7202
Failure to Account for and Pay Over
Withholding and F.I.C.A. (Social Security) Taxes

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
 v.) No. _____
) 26 U.S.C., § 7202
_____)

The grand jury charges:

That on or about the ___ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], who conducted a business as a sole proprietorship **1** under the name and style of _____, with its principal place of business in [*City*], [*State*], and who, during the first quarter **2** of the year 20__, ending _____, 20__, deducted and collected from the total taxable wages of his [her] employees federal income taxes and Federal Insurance Contributions Act taxes in the sum of \$____, did willfully fail to truthfully account for and pay over to the Internal Revenue Service said federal income taxes withheld and Federal Insurance Contributions Act taxes due and owing to the United States of America for the said quarter ending _____, 20__.

In violation of Title 26, United States Code, Section 7202.

A True Bill.

Foreperson

United States Attorney

NOTES

1 If taxpayer is a corporation, refer to Forms - 25 as a guide in charging appropriate corporate officials with an offense involving violation of a corporation's obligations under the law.

2 Designate appropriate quarter.

26 U.S.C. § 7203
Individual Return - Failure to File
Unmarried Defendant - Venue in District of Local IRS Office

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v.)
))
))
))
_____)

No. _____
26 U.S.C., § 7203

The United States Attorney charges:

That during the calendar year 1 20__, [*Defendant's Name*], who was a resident of [*City*], [*State*], 2 had and received gross income of \$_____; 3 that by reason of such gross income he [she] was required by law, following the close of the calendar year 1 20__, and on or before April 15, 20__, 4 to make an income tax return to the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], in the _____ District of _____, or to the Director, Internal Revenue Service Center, at [*City*], [*State*], or other proper officer of the United States, stating specifically the items of his [her] gross income and any deductions and credits to which he [she] was entitled; that well-knowing and believing all of the foregoing, he [she] did willfully fail to make an income tax return to said person assigned to receive returns at the local office of the Internal Revenue Service, to said Director of the Internal Revenue Service Center, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__". Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C., § 6072(a).

2 If venue is based on defendant's principal place of business, substitute for residence, "whose principal place of business was in [*City*], [*State*]".

3 If the amount of gross income is not to be alleged, substitute "had and received gross income in excess of \$_____ (minimum filing requirement)." For definition of gross income, *see* 26 U.S.C., § 61.

4 If April 15th fell on a Saturday, Sunday, or legal holiday, the appropriate date in the information would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. Note that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

26 U.S.C. § 7203
Individual Return - Failure to File
Filing Requirement Based on Taxpayer's Own Income
Venue in District of Service Center

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7203
)

The United States Attorney charges:

That during the calendar year 1 20__, [*Defendant's Name*], who was a resident of [*City*], [*State*], 2 had and received gross income of \$_____; 3 that by reason of such gross income he [she] was required by law, following the close of the calendar year 1 20__, and on or before April 15, 20__, 4 to make an income tax return to the Director, Internal Revenue Service Center, at [*City*], [*State*], in the _____ District of _____, or to the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], or other proper officer of the United States, stating specifically the items of his [her] gross income and any deductions and credits to which he [she] was entitled; that well-knowing and believing all of the foregoing, he [she] did willfully fail to make an income tax return to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__". Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C., § 6072(a).

2 If venue is based on defendant's principal place of business, substitute for residence, "whose principal place of business was in [*City*], [*State*]".

3 If the amount of gross income is not to be alleged, substitute "had and received gross income in excess of \$_____ (minimum filing requirement)." For definition of gross income, *see* 26 U.S.C., § 61.

4 If April 15th fell on a Saturday, Sunday, or legal holiday, the appropriate date in the information would be next succeeding day that was not a Saturday, Sunday, or legal holiday. Note that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

26 U.S.C. § 7203
Individual Return - Failure to File
Filing Requirement Based on Joint Income of Taxpayer and Spouse
where (1) Taxpayer and Spouse were entitled to file a joint return and
(2) Had the Same Residence as Their Household at the Close of the Taxable Year
Venue in District of Local IRS Office

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.)	No. _____
)	26 U.S.C., § 7203
_____)	

The United States Attorney charges:

That during the calendar year 1 20__, [*Defendant's Name*], who was a resident of [*City*], [*State*], 2 and his [her] spouse had and received gross income totalling \$_____; 3 that by reason of such gross income, he [she] was required by law, following the close of the calendar year 20__ and on or before April __, 20__, 4 to make an income tax return to the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], in the _____ District of _____, or to the Director, Internal Revenue Service Center, at [*City*], [*State*], or other proper officer of the United States, stating specifically the items of his [her] gross income and any deductions and credits to which he [she] was entitled; that well-knowing and believing all the foregoing, he [she] did willfully fail to make said income tax return to the said person assigned to receive returns at the local office of the Internal Revenue Service, to said Director of the Internal Revenue Service Center, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__". Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C., § 6072(a).

2 If venue is based on the defendant's principal place of business, substitute for residence, "whose principal place of business was in [*City*], [*State*]".

3 If the amount of gross income is not to be alleged, substitute "had and received gross income in excess of \$_____ [*minimum filing requirement*]." For definition of gross income, *see* 26 U.S.C., § 61.

4 If April 15th fell on a Saturday, Sunday, or legal holiday, the appropriate date in the information would be next succeeding day that was not a Saturday, Sunday, or legal holiday. Note that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

26 U.S.C. § 7203
Individual Return - Failure to File
Community Property State Alternative

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7203
)

The United States Attorney charges:

That during the calendar year **1** 20__, the defendant, [*Defendant's Name*], and his [her] spouse, [*Spouse's Name*], who were husband and wife and were residents of [*City*], [*State*], **2** which is a community property state, had and received gross income computed on the community property basis of \$_____ and \$_____, respectively; **3** that by reason of such income, the law required the defendant, following the close of the calendar year 20__ and on or before April __, 20__, **4** to make an income tax return to the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], in the _____ District of _____, or to the Director, Internal Revenue Service Center, at [*City*], [*State*], or other proper officer of the United States, stating specifically the items of his [her] gross income and any deductions and credits to which he [she] was entitled; that well-knowing and believing all the foregoing, the defendant did willfully fail to make said income tax return or returns to the said person assigned to receive returns at the local office of the Internal Revenue Service, to said Director of the Internal Revenue Service Center, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__". Fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C., § 6072(a).

2 If venue is based on defendant's principal place of business, substitute for residence, "whose principal place of business was in [*City*], [*State*]".

3 If the spouses were entitled to file a joint return and had the same household at the close of the taxable year, the minimum filing requirement is based on the sum of their individual incomes computed on the community property basis. If the amount of gross income is not to be alleged, substitute "had and received gross income in excess of \$_____ [*minimum filing requirement*]." For definition of gross income, *see* 26 U.S.C., § 61.

4 If April 15th fell on a Saturday, Sunday, or legal holiday, the appropriate date in the information would be next succeeding day that was not a Saturday, Sunday, or legal holiday. Note that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

26 U.S.C. § 7203
Partnership Return - Failure to File
Venue in District of Service Center 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v.)
) No. _____
))
))
))

The United States Attorney charges:

That during the calendar year 2 20__, [*Defendant's Name*] conducted a business as a partnership under the name and style of _____, with its principal place of business at [*City*], [*State*], and by reason of such facts he [she] was required by law, following the close of the calendar year 2 20__, and on or before April 15, 20__, 3 for and on behalf of said partnership, to make a partnership return of income to the Director, Internal Revenue Service Center, at [*City*], [*State*], in the _____ District of _____, or to the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], or other proper officer of the United States, stating specifically the items of said partnership's gross income and the deductions and credits allowed by law; that well-knowing and believing all of the foregoing, he [she] did willfully fail to make a partnership return to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If venue is to be placed in the judicial district of the person assigned to receive returns at the local office of the Internal Revenue Service, modify this form in accordance with language at Forms - 33.

2 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

3 Fiscal year partnership returns must be filed on or before the 15th day of the fourth month following the close of the fiscal year. 26 U.S.C., §§ 6031, 6072(a). Note that if the fifteenth day fell on a Saturday, Sunday, or legal holiday, the appropriate date in the information would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. Note also that the date the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

26 U.S.C. § 7203
Corporation Return - Failure to File
Venue in District of Service Center 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7203
)

The United States Attorney charges:

That during the calendar year 2 20__, the defendant, [*Defendant's Name*], 3 was the [*Position Held in Corporation*] of [*Name of Corporation*], a corporation not expressly exempt from tax, with its principal place of business at [*City*], [*State*], and by reason of such facts he [she] [it] was required by law, after the close of the calendar year 2 20__, and on or before March 15, 20__, 4 for and on behalf of said corporation, to make an income tax return to the Director, Internal Revenue Service Center, at [*City*], [*State*], in the _____ District of _____, or to the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], 1 or other proper officer of the United States, stating specifically the items of said corporation's gross income and the deductions and credits allowed by law; that well-knowing and believing all of the foregoing, he [she] [it] did willfully fail to make an income tax return to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If venue is to be placed in the judicial district of the person assigned to receive returns at the local office of the Internal Revenue Service, modify this form in accordance with language at Forms - 33.

2 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

3 If the corporation is named as the defendant, substitute the name of the corporation.

4 Fiscal year corporation income tax returns must be filed on or before the 15th day of the third month following the close of the fiscal year. 26 U.S.C., § 6072(b). Note that if the fifteenth day fell on a Saturday, Sunday, or legal holiday, the appropriate date in the information would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. Note also that the date of the return was due should include any authorized extensions of time for filing. 26 U.S.C., § 7503.

26 U.S.C. § 7203
Individual - Information Return
Failure to File

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7203
)

The United States Attorney charges:

That during the calendar year 20__, the defendant, [*Defendant's Name*], made payments of [*E.g., Rent, Salaries, Wages, Premiums, Annuities, Compensations, Remunerations, Gains, Profits, or Income*], to the persons and in the amounts following:

<u>NAME</u>	<u>ADDRESS</u>	<u>AMOUNT</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

That by reason of such payments, [*Defendant's Name*] was required by law to make a return on United States Treasury Department Internal Revenue Service Form 1096 on or before the 28th day of February, 20__, to the Director, Internal Revenue Service Center, at [*City*], [*State*], 1 in the _____ District of _____, setting forth the number of returns on United States Treasury Department Internal Revenue Service Form(s) 1099 attached thereto; that well-knowing and believing all of the foregoing, [*Defendant's Name*] did willfully fail to make said return to said Director of the Internal Revenue Service Center at said time and place, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 Use Internal Revenue Service Center where Form 1096 was required to be filed. *See* Instructions for Forms 1096. Treas. Reg. 1.6041-6 (26 C.F.R.).

26 U.S.C. § 7203
Individual - 26 U.S.C. § 6050I
Returns Relating to Cash Received in Trade or Business
Failure to File

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
 v.) No. _____
) 26 U.S.C., § 7203
_____)

The grand jury charges:

During the calendar year 20__, in the [*Judicial District*], the defendant [*Defendant's Name*], was the [*Position Held in Business*] of a business located in [*City*], [*State*], under the name and style of [*Name of Business*], and was engaged in trade and business as [*Type of Business*].

On or about [*Date of Cash Transaction*], defendant [*Defendant's Name*], in connection with a transaction relating to [*Trade or Business - Insert Description of Transaction (e.g., the sale of an automobile to an undercover agent of the Internal Revenue Service)*], did receive [*Amount involved in cash transaction*] in cash from [*Name of Person Conducting Transaction*] as [*Reason for Receipt (e.g., payment for automobile)*].

By virtue of his receipt of [*Amount of Cash*] on [*Date of Cash Transaction*], defendant [*Defendant's Name*] was required by law, pursuant to Title 26, United States Code, Section 6050I, and Treas. Reg. §1.6050I-1 (26 C.F.R.), to file with the Internal Revenue Service office specified by the Secretary of the Treasury, at [*City*], [*State*], in the _____ District of _____, a return within 15 days of his [her] receipt of the [*Amount of Cash*], on IRS Form 8300 in the manner and form stated thereon, stating, among other things, the name, address, and taxpayer identification number of the person from who he [she] received the cash, the amount of cash received, and the date and nature of the transaction;

26 U.S.C. § 7203

July 2006

Well knowing all of the foregoing facts, defendant [*Defendant's Name*] did willfully fail to file the required return with the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203.

A True Bill.

Foreperson

United States Attorney

26 U.S.C. § 7203
Individual - 26 U.S.C. § 60501
Returns Relating to Cash Received in Trade or Business
Failure to File

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v.)
) No. _____
) 26 U.S.C., § 7203
)

The grand jury charges:

That on or about the ___ day of _____, 20__ , in the _____ District of _____, [*Defendant's Name*], whose principal place of business was in [*City*], [*State*], received a payment in a trade or business, to wit, [*identify trade or business*], in excess of \$10,000 United States currency, to wit, [*amount of currency*].

That by reason of such payment, [*Defendant's Name*] was required by law to make a return on United States Treasury Department Internal Revenue Service Form 8300 on or before the ___ day of _____, 20__ , to the Internal Revenue Service office specified by the Secretary of the Treasury, at [*City*], [*State*], in the _____ District of _____, stating specifically the items of identify of the individual from whom the cash was received, the person on whose behalf this transaction was conducted, the description of transaction and method of payment, and the business reporting this transaction on United States Treasury Department Internal Revenue Service Form 8300; that well-knowing and believing all of the foregoing, [*Defendant's Name*] did willfully fail to make said return to said office of the Internal Revenue Service at said time and place.

26 U.S.C. § 7203

July 2006

In violation of Title 26, United States Code, Sections 6050I and 7203, and Treas. Reg. §1.6050I-1 (26 C.F.R.)

A True Bill.

Foreperson

United States Attorney

26 U.S.C. § 7203
Individual - Failure to Pay Tax
Venue in District of Service Center 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7203
)

The United States Attorney charges:

That during the calendar year 2 20__, [*Defendant's Name*], who was a resident of [*City*], [*State*], had and received taxable income of \$____, on which taxable income there was owing to the United States of America an income tax of \$____; that he [she] was required by law on or before April 15, 20__, 3 to pay said income tax to the Director, Internal Revenue Service Center, at [*City*], [*State*], in the _____ District of _____, or to the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], 1 or other proper officer of the United States; and that well-knowing and believing all of the foregoing, he [she] did willfully fail to pay the said income tax to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*], or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If venue is to be placed in the judicial district of the person assigned to receive returns at the local office of the Internal Revenue Service, modify this form in accordance with language at Forms - 33.

2 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

3 If April 15th fell on a Saturday, Sunday, or legal holiday, the appropriate date in the information would be the next succeeding day that was not a Saturday, Sunday, or legal holiday. 26 U.S.C., § 7503. Note that fiscal year individual returns must be filed on or before the 15th day of the fourth month after the end of the fiscal year. 26 U.S.C., § 6072(a).

26 U.S.C. § 7203
Sole Proprietorship or Partnership
Employer's Quarterly Return - Failure to File
Venue in District of Service Center 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7203

)

The United States Attorney charges:

That during the period from [Date] to [Date], inclusive, [Defendant's Name], a resident of [City], [State], was an employer of labor 1 and a person required under the provisions of the Internal Revenue Code to make a return of federal income taxes withheld from wages and Federal Insurance Contributions Act (F.I.C.A.) taxes; that during said period he [she] paid wages to his [her] employees which were subject to withholding of federal income taxes and Federal Insurance Contributions Act taxes in the sum of \$_____ and \$_____, respectively; that by reason of such facts, he [she] was required by law, after [Last Day of Period], and on or before [Return Due Date], to make an Employer's Quarterly Federal Tax Return, Form 941, to the Director, Internal Revenue Service Center, at [City], [State], in the _____ District of _____, or to the person assigned to receive returns at the local office of the Internal Revenue Service at [City], [State], 2 or other proper officer of the United States; and that well-knowing and believing all of the foregoing, he [she] did willfully fail to make said return to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service at [City], [State], or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If employer is a corporation, refer to Forms - 25 as a guide in charging appropriate corporate officials with an offense involving violation of a corporation's obligations the law.

2 If venue is to be placed in the judicial district of the person assigned to receive returns at the local office of the Internal Revenue Service, modify this form in accordance with language at Forms - 33.

26 U.S.C. § 7203
Sole Proprietorship or Partnership
Employer's Quarterly Return
Failure to File - Tabular Form Information
Venue in District of Service Center 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
26 U.S.C., § 7203

The United States Attorney charges:

1. That during the period from [Date] to [Date], inclusive, [Defendant's Name], a resident of [City], [State], was an employer of labor 2 and a person required under the provisions of the Internal Revenue Code to make a return of federal income taxes withheld from wages and Federal Insurance Contributions Act (F.I.C.A.) taxes; that during said period he [she] paid wages to his [her] employees which were subject to withholding of federal income taxes and Federal Insurance Contributions Act taxes; that by reason of such facts he [she] was required by law, after the close of each calendar quarter and on or before each due date, to make an Employer's Quarterly Federal Tax Return, Form 941, to the Director, Internal Revenue Service Center, at [City], [State], in the _____ District of _____, or to the person assigned to receive returns at the local office of the Internal Revenue Service at [City], [State], 1 or other proper officer of the United States; and that well-knowing and believing all of the foregoing, he [she] did willfully fail to make to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service, or to any other proper officer of the United States, said Employer's Quarterly Federal Tax Return, Form 941, for each of the calendar quarters hereinafter set forth during the period from [Date] to [Date].

2. The allegations of paragraph "1." herein are repeated and realleged for Counts I through ___, inclusive, of this Information, as though fully set forth therein:

Table with 7 columns: COUNT, QUARTER ENDED, DUE DATE, TOTAL WAGES, FICA TAXES (EMPLOYER'S & EMPLOYEE'S), INCOME TAXES WITHHELD, TOTAL(FICA) AND INCOME) TAX LIABILITY

II. _____
 III. _____

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If employer is a corporation, refer to Forms - 25 as a guide in charging appropriate corporate officials with an offenses involving violation of a corporation's obligations under the law.

2 If venue is to be placed in the judicial district of the person assigned to receive returns at the local office of the Internal Revenue Service, modify this form in accordance with language at Forms - 33.

26 U.S.C. § 7203
Sole Proprietorship or Partnership
Excise Tax Return - Failure to File
Venue in District of Service Center 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7203

)

The United States Attorney charges:

That during the period from [Date] to [Date], [Defendant's Name] 2 conducted a business as a [Sole Proprietorship or Partnership] under the name and style of _____, with its principal place of business in [City], [State], and sold at retail 3 [Article], upon which sales there were due and owing to the United States of America retail dealer's 4 excise taxes in the amount of \$____; that by reason of such fact he [she] was required by law, after [Last Day Of Period], and on or before [Return Due Date], to make a Quarterly Federal Excise Tax Return 5 to the Director, Internal Revenue Service Center, at [City], [State], in the _____ District of _____, or to the person assigned to receive returns at the local office of the Internal Revenue Service at [City], [State], 1 or other proper officer of the United States; that well-knowing and believing all of the foregoing, he [she] did willfully fail to make said return to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

United States Attorney

NOTES

1 If venue is to be placed in the judicial district of the person assigned to receive returns at the local office of the Internal Revenue Service, modify this form in accordance with language at Forms - 33.

2 If taxpayer is a corporation, refer to Forms - 25 as a guide in charging appropriate corporate officials with an offense involving violation of a corporation's obligations under the law.

3 Designate appropriate business, *e.g.*, manufacturing.

4 For other excise taxes, *see* 26 U.S.C., § 4041, *et seq.*

5 Designate appropriate IRS form.

26 U.S.C. § 7204
Employee's Withholding Statement, Form W-2
Failure to Furnish

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7204
)

The United States Attorney charges:

That on or about the ___ day of _____, 20___, in the ___ District of _____, [*Defendant's Name*], **1** a resident of [*City*], [*State*], who during the calendar year 20__ employed [*Name of Employee*], a resident of [*City*], [*State*], and who was required under the Internal Revenue laws to deduct and withhold federal income taxes and Federal Insurance Contributions Act taxes with respect to the wages of [*Name of Employee*] and to furnish him [her] on or before January 31, 20___, with a written statement showing the amount of wages paid and taxes deducted and withheld during the calendar year 20___, did willfully fail to furnish said statement to said employee in the manner and at the time required by law.

In violation of Title 26, United States Code, Section 7204.

United States Attorney

NOTES

1 If employer is a corporation, refer to language at Forms - 25 as a guide in charging appropriate corporate officials with an offense involving violation of a corporation's obligations under the law.

26 U.S.C. § 7204
Employee's Withholding Statement, Form W-2
Furnishing False and Fraudulent Statement

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
_____) 26 U.S.C., § 7204

The United States Attorney charges:

That on or about the ___ day of _____, 20___, in the ___ District of _____, [Defendant's Name], 1 a resident of [City], [State], who during the calendar year 20__ employed [Name of Employee], a resident of [City], [State], and who was required under the Internal Revenue laws to deduct and withhold federal income taxes and Federal Insurance Contributions Act taxes with respect to the wages of [Name of Employee] and to furnish him [her] on or before January 31, 20___, with a written statement showing the amount of wages paid and taxes deducted and withheld during the calendar year 20___, did willfully furnish a false and fraudulent statement to said employee showing that the total wages paid were \$___ and that the income taxes deducted and withheld were \$___ and that the Federal Insurance Contributions Act taxes deducted and withheld were \$___, whereas, as [Defendant's Name] then and there well knew and believed, the total wages paid were \$___, and the income taxes deducted and withheld were \$___ and the Federal Insurance Contributions Act taxes deducted and withheld were \$___.

In violation of Title 26, United States Code, Section 7204.

United States Attorney

NOTES

1 If the employer is a corporation, refer to language at Forms - 25 as a guide in charging appropriate corporate officers with an offense involving violation of a corporation's obligations under the law.

26 U.S.C. § 7205
False Withholding Allowance Certificate, Form W-4

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7205
)

The United States Attorney charges:

That on or about the ___ day of _____, 20___, in the ___ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], who during the calendar year 20__ was employed by [*Name of Employer*], a resident of [*City*], [*State*], and who was required under the Internal Revenue laws to furnish [*Name of Employer*] with a signed Employee's Withholding Allowance Certificate, Form W-4, setting forth the number of withholding allowances claimed on or about the date of the commencement of employment by [*Name of Employer*], did willfully supply a false and fraudulent Employee's Withholding Allowance Certificate, Form W-4, to [*Name of Employer*], on which he [she] claimed ___ withholding allowances, **1** whereas, as [*Defendant's Name*] then and there well knew and believed, he [she] was entitled to claim only ___ withholding allowances. **2**

In violation of Title 26, United States Code, Section 7205.

United States Attorney

COMMENTS

1 The Government does *not* have to prove the number of allowances that the defendant could claim. See *United States v. McDonough*, 603 F.2d 19, 23-24 (7th Cir. 1979).

2 The Fifth Circuit has ruled that "withholding exemptions" and "withholding allowances" are the same in the context of the sufficiency of a Section 7205 indictment. *United States v. Anderson*, 577 F.2d 258, 261 (5th Cir. 1978).

NOTES

1 Where appropriate, the following language should be substituted: "he [she] claimed exemption from withholding."

2 Where appropriate, the following language should be substituted: "he [she] was not exempt from withholding."

COMMENT

1 The Seventh Circuit has approved this type of form as sufficiently charging a § 7206(1) offense. *United States v. Marrinson*, 832 F.2d 1465, 1476 (7th Cir. 1987).

NOTES

1 An aider and abettor may be jointly charged with the principal under 18 U.S.C., § 2. If this is done, the language "and did willfully aid, abet, assist, and cause to be so made and subscribed" should be inserted after the word "subscribe" and appropriate reference made to 18 U.S.C., § 2, as well as to 26 U.S.C., § 7206(1).

2 If the Service Center was not the place of filing, substitute "with the person assigned to receive returns at the local office of the Internal Revenue Service at [*City*], [*State*]"; or "with a proper officer of the United States".

July 2006

26 U.S.C. § 7206(1)

26 U.S.C. § 7206(1)
Making and Subscribing a False
Return, Statement, or Other Document
Venue in District of Preparation and Signing

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7206(1)

)

The grand jury charges:

That on or about the _____ day of _____, 20____, in the _____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], did willfully make and subscribe **1** a [***Describe Document***], which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said [***Describe Document***] he [she] did not believe to be true and correct as to every material matter in that the said [***Describe Document and the False Fact(s)***], whereas, as he [she] then and there well knew and believed, [***Describe Correct Fact(s)***].

In violation of Title 26, United States Code, Section 7206(1).

A True Bill.

Foreperson

United States Attorney

COMMENT

1 The Seventh Circuit has approved this type of form as sufficiently charging a § 7206(1) offense. *United States v. Marrinson*, 832 F.2d 1465, 1476 (7th Cir. 1987).

NOTES

1 An aider and abettor may be jointly charged with the principal under 18 U.S.C., § 2. If this is done, the language "and did willfully aid, abet, assist, and cause to be so made and subscribed" should be inserted after the word "subscribe" and appropriate reference made to 18 U.S.C., § 2, as well as to 26 U.S.C., § 7206(1).

NOTES

1 An aider and abettor may be jointly charged with the principal under 18 U.S.C., § 2. If this is done, the language "and did willfully aid, abet, assist, and cause to be so made and subscribed" should be inserted after the word "subscribe" and appropriate reference made to 18 U.S.C. (§ 2, as well as to 26 U.S.C.) § 7206(1).

2 Where appropriate, substitute correct tax return, *e.g.*, U.S. Corporation Income Tax Return.

3 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

4 If venue is to be placed in the district of filing, modify this form in accordance with language at Forms - 63.

July 2006

26 U.S.C. § 7206(1)

26 U.S.C. § 7206(1)
Making and Subscribing a False Return
Failure to Disclose a Business

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7206(1)
)

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully make and subscribe a [*joint*] U.S. Individual Income Tax Return, for the calendar year 20__, **1** which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, **2** which said income tax return he [she] did not believe to be true and correct as to every material matter in that the said return failed to disclose that he [she] was engaged in the operation of a business activity from which he [she] derived gross receipts or sales and incurred deductions, whereas, as he [she] then and there well knew and believed, he [she] was required by law and regulation to disclose the operation of this business activity, the gross receipts or sales he [she] derived therefrom, and the deductions he [she] incurred.

In violation of Title 26, United States Code, Section 7206(1).

A True Bill.

Foreperson

United States Attorney

NOTES

1 If fiscal year is involved, substitute "fiscal year ended _____, 20__".

2 If venue is to be placed in the district of filing, modify this form in accordance with language at Forms - 63.

26 U.S.C. § 7206(2)
Aiding and Assisting in the Preparation and Presentation
of a False and Fraudulent Return, Statement, or Other Document

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7206(2)

)

The grand jury charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, the defendant, [***Defendant's Name***], a resident of [***City***], [***State***], did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, 1 of [***Taxpayer's Name***] for the calendar year 2 20__, which was false and fraudulent as to a material matter, in that [***Describe False Fact(s), e.g., it represented that the said (Taxpayer's Name) was entitled under the provisions of the Internal Revenue laws to claim deductions in the total sum of \$____***], whereas, as the defendant then and there well knew and believed, [***Describe Correct Fact(s), e.g., the total deductions which the said (Taxpayer's Name) was entitled to claim for said calendar year were in the total sum of \$____***].

In violation of Title 26, United States Code, Section 7206(2).

A True Bill.

Foreperson

United States Attorney

July 2006

26 U.S.C. § 7206(2)

NOTES

- 1** Designate appropriate document if not a tax return, *e.g.*, a financial statement.
- 2** If fiscal year is involved, substitute "fiscal year ended _____, 20__".

26 U.S.C. § 7206(2)
Aiding and Assisting in the Preparation and Presentation
of False and Fraudulent Individual Income Tax Returns
Containing False Deductions - Tabular Form Indictment

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
26 U.S.C., § 7206(2)

The grand jury charges:

1. That on or about the dates hereinafter set forth, in the _____ District of _____, the defendant, [Defendant's Name], a resident of [City], [State], did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of U.S. Individual Income Tax Returns, Forms 1040, either individual or joint, for the taxpayers and calendar years hereinafter specified, which were false and fraudulent as to material matters, in that they represented that the said taxpayers were entitled under the provisions of the Internal Revenue laws to claim deductions for items and in amounts hereinafter specified, whereas, as the defendant then and there well knew and believed, the said taxpayers were not entitled to claim deductions in said amounts, but of lesser amounts.

2. The allegations of paragraph "1." are repeated and realleged in Counts I through _____, inclusive, of this Indictment, as though fully set forth therein:

Table with 6 columns: COUNT, DATE OF OFFENSE, TAXPAYER, CALENDAR TAX YEAR, FALSELY CLAIMED ITEM 1, AMOUNT CLAIMED. Rows I, II, III.

July 2006

26 U.S.C. § 7206(2)

In violation of Title 26, United States Code, Section 7206(2).

A True Bill.

Foreperson

United States Attorney

NOTES

1 Where the fraudulent deductions (generally itemized deductions) consist of alleged payments to individuals or organizations, list each fraudulent payment, rather than totalling such payments in the deduction category under which they were claimed on the return. For example, list "Medical Expenses Dr. Jones-\$500; Dr. Smith-\$500," not, "Medical Expenses \$1,000." This will prevent a defense that additional, unclaimed deductions in the same deduction category are available to offset the false items.

26 U.S.C. § 7206(5)(B)
Withholding, Falsifying, or Destroying Records
or Making a False Statement in Connection with
a Compromise or Closing Agreement

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)

v.)

No. _____
26 U.S.C., § 7206(5)(B)

The grand jury charges:

That on or about the ___ day of _____, 20___, in the _____ District of
_____, [Defendant's Name], a resident of [City], [State], in connection with an offer of
compromise 1 relating to his [her] liability for [Type of Tax] taxes due and owing by him [her] to
the United States of America for the calendar year(s) _____, 2 did willfully [(receive) (withhold)
(destroy) (mutilate) or (falsify), Describe Book, Document, or Record Involved] 3.

In violation of Title 26, United States Code, Section 7206(5)(B).

A True Bill.

Foreperson

United States Attorney

NOTES

1 Where appropriate, substitute "a compromise"; or "a closing agreement"; or "an offer to enter into a closing agreement".

2 If fiscal year is involved, substitute "fiscal year(s) ended _____, 20__".

3 Where false statement is the crime, substitute "make a false statement to [*Name Appropriate Official, with Job Title*], at [*Place*], [*Location*], wherein [*Defendant's Name*] stated that [*Describe False Statement Relating to the Estate or Financial Condition of Taxpayer*], whereas, as he [she] then and there well knew and believed, [*Describe Correct Fact(s) Relating to False Statement*]".

26 U.S.C. § 7207
False Document Submitted to I.R.S.
Venue in District Where Document Submitted

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7207 1
)

The United States Attorney charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully deliver and disclose by submitting to an Officer(s) of the Internal Revenue Service, United States Treasury Department, at [*Place*], [*Location*], a [*Describe Document, e.g., List, Account, Statement, or Other Document*], 2 which was known by the defendant to be fraudulent and false as to a material matter in that [*Describe the False Fact(s)*], whereas, as he [she] then and there well knew and believed, [*Describe the Correct Fact(s)*].

In violation of Title 26, United States Code, Section 7207.

United States Attorney

NOTES

1 Department policy generally limits Section 7207 prosecutions to cases involving the falsification of documents other than U.S. tax returns. In some very limited instances, however, the Tax Division will authorize Section 7207 charges where a false tax return is involved. See Tax Division Directive No. 75 in Section 3.00, *supra* and Section 16.03, Policy Limiting The Use Of § 7207, *supra*.

2 A separate count should be charged for each false document.

26 U.S.C. § 7207
False Document Submitted to I.R.S.
Venue in District of Mailing

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 26 U.S.C., § 7207 **1**
_____)

The United States Attorney charges:

That on or about the ____ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully deliver and disclose by mailing and causing to be mailed, to an Officer(s) of the Internal Revenue Service, United States Treasury Department, a [*Describe Document, e.g., List, Account, Statement, or Other Document*], **2** which was known by the defendant to be fraudulent and false as to a material matter in that [*Describe the False Fact(s)*], whereas, as he [she] then and there well knew and believed, [*Describe the Correct Fact(s)*].

In violation of Title 26, United States Code, Section 7207.

United States Attorney

NOTES

1 Department policy generally limits Section 7207 prosecutions to cases involving the falsification of documents other than U.S. tax returns. In some very limited instances, however, the Tax Division will authorize Section 7207 charges where a false tax return is involved. See Tax Division Directive No. 75 in Section 3.00, *supra* and Section 16.03, Policy Limiting The Use Of § 7207, *supra*.

2 A separate count should be charged for each false document.

26 U.S.C. § 7207
False Documents Submitted to I.R.S.
Venue in District Where Documents Submitted
Tabular Form Information

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
26 U.S.C., § 7207 1

The United States Attorney charges:

1. That on or about the dates hereinafter specified, in the _____ District of _____, [Defendant's Name], a resident of [City], [State], did willfully deliver and disclose by submitting to an Officer(s) of the Internal Revenue Service, United States Treasury Department, at [Place], [Location], documents hereinafter specified, 2 known by the defendant to be fraudulent and false as to a material matter, as hereinafter specified.

2. The allegations of paragraph "1." are repeated and realleged in Counts I through ____, inclusive, of this Information, as though fully set forth therein.

Table with 4 columns: COUNT, DATE OF OFFENSE, DESCRIPTION OF DOCUMENT, FALSITY. Rows I, II, III.

In violation of Title 26, United States Code, Section 7207.

United States Attorney

NOTES

1 Department policy generally limits Section 7207 prosecutions to cases involving the falsification of documents other than U.S. tax returns. In some very limited instances, however, the Tax Division will authorize Section 7207 charges where a false tax return is involved. *See* Tax Division Directive No. 75 in § 3.00, *supra* and § 16.03, Policy Limiting The Use Of § 7207, *supra*.

2 A separate count should be charged for each false document.

26 U.S.C. § 7207
False Documents Submitted to I.R.S.
Venue in District of Mailing
Tabular Form Information

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
26 U.S.C., § 7207 1

The United States Attorney charges:

1. That on or about the dates hereinafter specified, in the _____ District of _____, [Defendant's Name], a resident of [City], [State], did willfully deliver and disclose by mailing and causing to be mailed, to an Officer(s) of the Internal Revenue Service, United States Treasury Department, documents hereinafter specified, 2 known by the defendant to be fraudulent and false as to a material matter, as hereinafter specified.

2. The allegations of paragraph "1." are repeated and realleged in Counts I through ____, inclusive, of this Information, as though fully set forth therein.

Table with 4 columns: COUNT, DATE OF OFFENSE, DESCRIPTION OF DOCUMENT, FALSITY. Rows I, II, III.

In violation of Title 26, United States Code, Section 7207.

United States Attorney

NOTES

1 Department policy generally limits Section 7207 prosecutions to cases involving the falsification of documents other than U.S. tax returns. In some very limited instances, however, the Tax Division will authorize Section 7207 charges where a false tax return is involved. *See* Tax Division Directive No. 75 in Section 3.00, *supra*, and Section 16.03, Policy Limiting The Use Of § 7207, *supra*.

2 A separate count should be charged for each false document.

26 U.S.C. § 7210
Failure to Appear in Response to Summons

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v.)
) No. _____
) 26 U.S.C., § 7210
)

The United States Attorney charges:
That on or about the ____ day of _____, 20__, in the _____ District of _____, [*Defendant's Name*], a resident of [*City*], [*State*], was required under the Internal Revenue laws, by reason of being duly summoned, to appear to testify **1** at _____ on the aforesaid date at the office of _____; that well-knowing and believing all of the foregoing, he [she] willfully failed to appear to testify **1** at the time and place required by the summons.
In violation of Title 26, United States Code, Section 7210.

United States Attorney

NOTES

1 Where appropriate, add or substitute "and produce [*Describe Documents Summoned*]".

Foreperson

United States Attorney

26 U.S.C. § 7215
Failure to Make Trust Fund
Deposit After Notice

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
26 U.S.C., § 7215

The United States Attorney charges:

1. That during the period _____, 20__, to _____, 20__, in the _____ District of ____, [Defendant's Name] was an employer of labor 1 required under the provisions of the Internal Revenue Code to collect, account for, and pay over to the United States federal income taxes and Federal Insurance Contributions Act (F.I.C.A.) taxes withheld from wages.

2. That [Defendant's Name] did fail at the time and in the manner prescribed by the Internal Revenue Code, and Regulations promulgated pursuant thereto, to collect, truthfully account for, and pay over and to make deposits and payments of the said withheld taxes to the United States, which were due and owing for the quarters ending _____, 20__, _____, 20__, _____, 20__, and _____, 20__. 2

3. That on _____, 20__, [Defendant's Name] was notified of such failure by notice delivered in hand to him [her] as provided by Title 26, United States Code, Section 7512, which said notice advised him [her] that he [she] was required to collect the aforesaid taxes that became collectible after delivery of such notice, and, not later than the end of the second banking day after such collection, to deposit said taxes in a separate bank account established by him [her] in trust for the United States to be kept therein until paid over to the United States.

4. That within the _____ District of _____, [Defendant's Name] unlawfully failed to comply with the provisions of Title 26, United States Code, Section 7512, in that, after receiving delivery of the notice referred to in paragraph "3.", he [she] paid wages and was required to collect and deposit the said taxes, but failed to deposit said taxes in a separate bank account in trust for the United States, by the dates and in the amounts hereinafter specified:

Table with 4 columns: COUNT, DATE WAGES PAID, DATE DEPOSIT REQUIRED, AMOUNT OF DEPOSIT REQUIRED. Rows I and II.

III.	_____	_____	\$ _____
IV.	_____	_____	\$ _____

In violation of Title 26, United States Code, Section 7215.

United States Attorney

NOTES

1 If the employer is other than a sole proprietorship (*e.g.*, a corporation, partnership, or joint venture), the relationship of the defendant to the employer-entity, which makes him the responsible person, should be alleged in paragraphs 1, 2, and 3, by substituting "[*Defendant's Name*]", who was the [*Position Held in Company*] of [*Name of Company*], a [*Type of Company, e.g., Corporation, Partnership, etc.*], and an employer of labor".

2 Quarters prior to notice for which there was a failure to collect, account for, and pay over federal income and F.I.C.A. taxes withheld from wages.

July 2006

18 U.S.C. § 287

18 U.S.C. § 287
False Claim for Refund 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 18 U.S.C., § 287
)

The grand jury charges:

That on or about the _____ day of _____, 20__, in the _____ District of _____, [*insert Defendant's Name*], a resident of _____, _____, made and presented to the United States Treasury Department a claim against the United States for payment, which he [she] knew to be false, fictitious, or fraudulent, by preparing and causing to be prepared, 2 a U.S. Individual Income Tax Return, Form 1040, 3 which was presented to the United States Treasury Department, through the Internal Revenue Service, wherein he [she] claimed a refund of taxes in the amount of \$ _____, knowing such claim to be false, fictitious, or fraudulent.

In violation of Title 18, United States Code, Section 287.

A True Bill.

Foreperson

United States Attorney

NOTES

- 1** This form is for use with false paper returns.
- 2** If venue is to be placed in the district of filing, modify this form in accordance with language at Forms - 3 and related footnote **2**. If venue is based on mailing, substitute "by mailing and causing to be mailed".
- 3** The appropriate IRS form should be designated here -- *e.g.*, U.S. Corporation Income Tax Return, Form 1120.

18 U.S.C. § 286/287
Conspiracy to File False Claims for
Refund/False Claims for Refund 1

NOTE: This indictment provides sample language to charge violations of 18 U.S.C. 286 and 287 in the most commonly encountered type of ELF scheme. Modification of the language will be necessary in cases involving different fact patterns. Modification of the format used may be desirable to conform to local practice.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
) 18 U.S.C., § 286;
) Conspiracy, 18 U.S.C.,
) 287: False Claim to
) a Government Agency
_____,)
_____,)
_____)

The grand jury charges:

COUNT ONE
[18 U.S.C., § 286]

Beginning in or about [insert month], 20__, and continuing until on or about [insert month], 20__, within the _____ District of _____, defendants [insert name of defendant], [insert name of defendant], [insert name of defendant], and [insert name of defendant], and others, both known and unknown to the grand jury, unlawfully, willfully and knowingly agreed, combined and conspired with others and each other to defraud the United States by obtaining or aiding to obtain the payment or allowance of false, fictitious or fraudulent claims.

Manner and Means

Defendants *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, and *[insert name of defendant]* agreed to participate in, and participated in, a scheme to obtain or help others to obtain payment of false claims for refunds from the Internal Revenue Service ("IRS") by filing in their own names, and by causing others to file, false 20__ federal income tax returns claiming refunds to which they knew they were not entitled. Defendants *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, and *[insert name of defendant]* solicited, instructed and assisted others in falsely claiming federal income tax refunds through the preparation and submission of false federal income tax returns.

To accomplish the objects of this scheme, defendants *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, and *[insert name of defendant]* recruited individuals to file fraudulent federal income tax returns under their own names and social security numbers. Defendant *[insert name of defendant]* created false Forms W-2 in the names and social security numbers of each recruited individual that contained fabricated names of employers and names of employers who did not employ the employees listed on the Forms, and that contained fabricated amounts of tax withholdings. Defendants *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, and *[insert name of defendant]* also fabricated receipts for child-care expenses for the purpose of claiming false deductions and credits for child care on the electronically filed tax returns. Knowing that the false information contained in these Forms W-2 would be used to create tax returns claiming refunds for the individuals involved in this scheme, defendants *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, and *[insert name of defendant]* caused the false Forms W-2 and false receipts to be submitted to commercial tax return preparers authorized by the IRS to file tax returns electronically and to be represented to such preparers to be legitimate. The false Forms W-2 and false receipts defendants created were used by the commercial tax return preparers to prepare false 20__ federal income tax returns, which were electronically filed with the IRS by the tax return preparers, on behalf of the individuals recruited to participate in the scheme by defendants. As a result of the submission to the commercial tax return preparers of the false Forms W-2 and the false receipts, these electronically filed returns claimed tax refunds to which the individuals recruited by the defendants were not entitled.

On some occasions, one or more of defendants *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, *[insert name of defendant]*, and *[insert name of defendant]*

defendant] accompanied the recruited individual to the office of a legitimate tax return preparer where the individual had a tax return prepared and filed electronically. The recruited individuals, acting on instructions from defendants, applied for refund anticipation loans ("RAL") through the tax return preparer. This allowed the recruited individuals to receive cash advances on their false tax refunds from financial institutions within three to five days after the returns were electronically filed. One or more of defendants [*insert name of defendant*], [*insert name of defendant*], [*insert name of defendant*], [*insert name of defendant*], and [*insert name of defendant*] accompanied the recruited individuals to pick up the refund anticipation loan checks and to a check cashing service to cash those checks. Defendants then took and kept all or part of the loan proceeds from the recruited individuals. Defendants in this manner caused approximately _____ false returns to be filed, falsely claiming approximately \$____ from the United States government.

It was part of the conspiracy that each of the defendants would and did agree to participate in a scheme to falsely claim income tax refunds from the government using electronically filed tax returns.

It was further part of the conspiracy that in _____, 20__, defendant [*insert name of defendant*] instructed defendants [*insert name of defendant*], [*insert name of defendant*], [*insert name of defendant*], and [*insert name of defendant*] on procedures for falsely claiming income tax refunds on their own returns through the use of electronically filed income tax returns. Defendant [*insert name of defendant*] told the other defendants there was no chance of getting caught. Defendants [*insert name of defendant*], [*insert name of defendant*], [*insert name of defendant*], and [*insert name of defendant*] paid defendant [*insert name of defendant*] approximately one half of their proceeds, \$____, from their refund checks when they received them.

It was further part of the conspiracy that defendant [*insert name of defendant*] provided defendant [*insert name of defendant*] with blank W-2 forms, and that defendant [*insert name of defendant*] prepared and typed false Forms W-2 using the names and social security numbers of individuals recruited by other defendants to participate in the scheme, and assisted in preparing documents necessary to claim false child care deductions.

It was further part of the conspiracy that defendant [*insert name of defendant*] created the name of [*insert name of company*] Company and used that name as the employer on the false W-2 forms prepared by defendant [*insert name of defendant*]. In [*insert month*], 20__, defendant [*insert name of defendant*] paid for a commercial telephone answering service using the fabricated name of [*insert name of company*] Company and inserted that telephone number on the false W-2 forms prepared by defendant [*insert name of defendant*], [*or, obtained telephone numbers for individuals*

who would falsely represent that they were agents of the employers shown on the false Forms W-2] for the purpose of deceiving any income tax preparer or IRS representative who might call to verify the employment of and wages paid to a recruited individual attempting to file a false tax return.

It was further part of the conspiracy that the defendants offered to pay a cash "referral fee" to anyone who would refer to them other individuals who would be willing to participate in the scheme and file false returns in their own names.

It was further part of the conspiracy that in or about *[insert month]*, 20__, defendant *[insert name of defendant]* introduced *[insert name of recruited individual]* to defendant *[insert name of defendant]* for the purpose of facilitating the preparation of a false 20__ federal income tax return in *[insert name of recruited individual's name]*. Defendant *[insert name of defendant]* supplied *[insert name of recruited individual]* with a file containing false Forms W-2 and false receipts, and instructed *[insert name of recruited individual]* on procedures for electronically filing federal income tax returns falsely claiming refunds and applying for a refund anticipation loan.

It was further part of the conspiracy that on or about *[insert month and day]* 20__, *[insert name of recruited individual]* submitted, as instructed by defendant *[insert name of defendant]*, a false Form W-2 and false receipts created by defendants to *[insert name of return preparer]*, in *[insert name of city and state]*, and requested that a return be prepared and filed electronically. [*Or, On or about [insert month and day] 20__, defendant [insert name of defendant] drove [insert name of recruited individual] to the [insert name of return preparer]'s office in [insert name of city and state], where defendant [insert name of defendant] presented a false Form W-2 and false receipts for child-care expenses in [insert name of recruited individual]'s name for the preparation of a federal income tax refund to be electronically filed for [insert name of recruited individual].*] Those false documents were used by *[insert name of return preparer]* to prepare a 20__ federal income tax return falsely claiming a tax refund of \$____. [*Insert name of recruited individual]* signed the declaration on the Form 8453, which stated under penalty of perjury that the information shown on that form and on the electronic return was true and correct, and completed an application to obtain a refund anticipation loan for the amount of the refund, less fees.

It was further part of the conspiracy that on or about *[insert month and day]*, 20__, defendant *[insert name of defendant]* drove *[insert name of recruited individual]* to the *[insert name of return preparer]'s* office in *[insert name of city and state]*, where *[insert name of recruited individual]* obtained a check drawn on the *[insert name of bank]* bank of *[insert name of city and*

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18 U.S.C. § 286/287

state], which represented the proceeds of the refund anticipation loan based on the amount of the false claim for refund. Defendant [*insert name of defendant*] then drove [*insert name of recruited individual*] to a check-cashing establishment and waited while [*insert name of recruited individual*] cashed that check. Defendant [*insert name of recruited individual*] allowed [*insert name of recruited individual*] to retain \$___ of the proceeds of that check and took the remainder, which he then divided with defendant [*insert name of defendant*].

In violation of Title 18, United States Code, Section 286.

COUNTS TWO THROUGH TEN

[18 U.S.C., Secs. 287, 2]

On or about the dates listed below, within the _____ District of _____, defendants [*insert name of defendant*], [*insert name of defendant*], [*insert name of defendant*], [*insert name of defendant*], and [*insert name of defendant*] knowingly made and presented, and caused to be made and presented, to the Internal Revenue Service, an agency of the Department of the Treasury, claims against the United States for payment, which they knew to be false, fictitious or fraudulent, by preparing and causing to be prepared, and filing and causing to be filed, what purported to be federal income tax returns, for the individuals named below, wherein claims for income tax refunds for the amounts listed below were made, with knowledge that such claims were false, fictitious or fraudulent.

<u>COUNT</u>	<u>NAME</u>	<u>TAX DATE</u>	<u>REFUND YEAR</u>	<u>AMOUNT CLAIMED</u>
TWO	_____	___/___/___	_____	\$ _____
THREE	_____	___/___/___	_____	\$ _____
FOUR	_____	___/___/___	_____	\$ _____
FIVE	_____	___/___/___	_____	\$ _____
SIX	_____	___/___/___	_____	\$ _____
SEVEN	_____	___/___/___	_____	\$ _____
EIGHT	_____	___/___/___	_____	\$ _____
NINE	_____	___/___/___	_____	\$ _____
TEN	_____	___/___/___	_____	\$ _____

In violation of Title 18, United States Code, Section 287.

July 2006

18 U.S.C. § 286/287

COUNT ELEVEN

[18 U.S.C., § 287]

On or about [*insert month and day*], 20__, within the _____ District of _____, defendant [*insert name of defendant*] knowingly made and presented to the Internal Revenue Service, an agency of the Department of the Treasury, a claim against the United States for payment, which he knew to be false, fictitious or fraudulent, by preparing and causing to be prepared, and filing and causing to be filed, what purported to be a 20__ federal income tax return, wherein he claimed an income tax refund in the amount of \$____, knowing such claim to be false, fictitious or fraudulent.

In violation of Title 18, United States Code, Section 287.

A True Bill.

Foreperson

United States Attorney

NOTE

1 For use with electronically filed false claims for refund.

18 U.S.C. § 371
Conspiracy To Defraud United States
Impede And Impair I.R.S. -- Klein Conspiracy

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
v.) No. _____
18 U.S.C., Sec 371

The grand jury charges:

THE CONSPIRACY 1

1. From on or about [insert beginning date], the exact date being unknown to the Grand Jury, and continuing thereafter up to and including the date of this indictment 2, in the _____ District of _____, [insert first defendant's name], [insert second defendant's name], [insert third defendant's name], defendants herein, did unlawfully, voluntarily, intentionally and knowingly conspire, combine, confederate, and agree together and with each other and with other individuals both known and unknown to the Grand Jury to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment, and collection of the revenue: to wit, income taxes [or other relevant taxes, e.g., excise taxes]. 3

PARTIES, PERSONS AND ENTITIES

At all relevant times,

- 2. [E.g., Defendants John Smith and Tom Smith were president and vice-president of Smith, Inc., a corporation, and each owned 50% of the stock of Smith, Inc.]
3. [E.g., Defendant Sam Jones was a certified public accountant who prepared the income tax returns of Smith, Inc., a corporation, and its officers.]
4. [E.g., Smith, Inc., was a Massachusetts corporation, formed in 1975 by defendant John Smith to market real estate limited partnerships.]

5. [Continue to describe all defendants and all persons and entities that are significant to an understanding of the conspiracy.]

MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

6. [Describe manner or means, e.g., To divert corporate receipts to their own use, defendant John Smith presented false books and records to the corporate accountant for use in preparing the corporate income tax returns of Smith, Inc., for the calendar years 1988, 1989, and 1990.]

7. [E.g., By backdating documents so as to conceal from the Internal Revenue Service defendant John Smith's ownership and interest in real property.]

8. [E.g., By making false statements and representations to agents of the Internal Revenue Service for the purpose of concealing the interest of defendant John Smith in property, stock, etc.]

9. [Continue to describe general manner and means used to carry out the conspiracy.] 4

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the _____ District of _____, and elsewhere:

10. [E.g., On or about July 20, 1988, defendant Tom Smith and Jane Smith met in the offices of Smith Realty Co. at 33 Main Street, Boston, Massachusetts, and discussed how to backdate real estate contracts.]

11. [E.g., In or about the week of July 20, 1988, defendants John Smith and Tom Smith went to the A & B Bank in Boston, Massachusetts, and removed cash from the safe deposit box of defendant John Smith.]

In violation of Title 18, United States Code, Section 371.

A True Bill.

Foreperson

United States Attorney

NOTES

- 1** It is suggested that the paragraphs of the indictment be numbered sequentially from beginning to end even though the indictment will have different sections. This will eliminate confusion when reference is made to a particular portion or paragraph of the indictment.
- 2** Substitute appropriate date if the conspiracy ended before the date of the indictment.
- 3** Strike the remaining portion of this paragraph beginning with the phrase "to defraud the United States" and substitute appropriate language if conspiracy is to commit a substantive offense. *E.g.*, "to commit offenses against the United States: to wit, to violate Title 26, United States Code, Sections 7201 and 7206(1)." In the case of a conspiracy to commit a substantive offense, this paragraph must allege that the defendant had the intent required for the substantive offense.
- 4** When charging a *Klein* conspiracy (and not a conspiracy to commit a substantive offense), the means must include deceit, craft, and/or trickery, or at least means that are dishonest. *Hammerschmidt v. United States*, 265 U.S. 182, 188 (1924).

May 2005

18 U.S.C. § 1001

**18 U.S.C. § 1001
False Statement or Representation
Made to Department/Agency of U.S.**

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 18 U.S.C., § 1001
)

The grand jury charges:

That on or about the ____ day of _____, 20__, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully and knowingly make and cause to be made a materially false, fictitious, and fraudulent statement(s) and representation(s) in a matter within the jurisdiction of a department or agency of the United States by [*Describe False Statement or Representation and Describe Official to Whom False Statement Was Made*], at [*Place*], [*Location*], in the _____ District of _____, whereas, as [*Defendant's Name*] then and there well knew and believed, [*Describe Correct Fact(s) Regarding the False Statement or Representation*].

In violation of Title 18, United States Code, Section 1001.

A True Bill.

Foreperson

United States Attorney

18 U.S.C. § 1001
False Document Submitted
to Department/Agency of U.S.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 18 U.S.C., § 1001
)

The grand jury charges:

That on or about the ___ day of _____, 20___, [*Defendant's Name*], a resident of [*City*], [*State*], did willfully and knowingly make and cause to be made, and use and cause to be used, a false writing or document, knowing the same to contain a materially false, fictitious, and fraudulent statement, in a matter within the jurisdiction of a department or agency of the United States, by submitting [*Describe False Document and False Statement(s) Within Document and Describe Official to Whom the False Document Was Submitted*], at [*Place*], [*Location*], in the _____ District of _____, whereas, as [*Defendant's Name*] then and there well knew and believed, [*Describe Correct Fact(s) Regarding False Document*].

In violation of Title 18, United States Code, Section 1001.

A True Bill.

Foreperson

United States Attorney

May 2005

18 U.S.C. § 1001

18 U.S.C. § 1001
Falsify, Conceal, or Cover Up
by Trick, Scheme, or Device a Material Fact

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
) v. No. _____
) 18 U.S.C., § 1001
_____)

The grand jury charges:

From on or about the ____ day of _____, 20__, to on or about the ____ day of _____, 20__, in the _____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], did willfully and knowingly falsify, conceal, and cover up, by trick, scheme, or device a material fact, in a matter within the jurisdiction of a department or agency of the United States, by [***Describe Nature of Scheme or Device to Conceal, Including Name and Title of any IRS Employee to Whom False Statement(s) or Representation(s) Were Made; Nature of False Statement(s) or Representation(s); Place and Location Where False Statement(s) or Representation(s) Were Made; and/or Specific False Document(s) Submitted 1***], whereas, as [***Defendant's Name***] then and there well knew and believed, [***Describe Correct Facts Relating to False Statement(s), Representation(s), and/or Document(s) 2***].

In violation of Title 18, United States Code, Section 1001.

A True Bill.

Foreperson

United States Attorney

NOTES

1 *E.g.*, "by representing to John Smith, Revenue Officer, Internal Revenue Service, at 33 Main Street, Boston, Massachusetts, that the deductions claimed for contributions were in the amount of \$_____, and that eight checks drawn on account number _____, at _____ Bank, were issued to make the contributions in the amounts represented on said checks".

2 *E.g.*, "the said eight checks had been altered and were false as to _____ (amounts, payees, dates, etc.)".

May 2005

18 U.S.C. § 1956(a)(1)(A)(ii)

18 U.S.C. § 1956(a)(1)(A)(ii)
Laundering of Monetary Instruments

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)
)
 v.)
)
 _____)

No. _____
18 U.S.C., Secs. 1956(a)(1)(A)(ii)
and 2

The grand jury charges:

On or about [*Date*], in the _____ District of _____, [*Defendant(s) Name(s)*] did knowingly and willfully conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, to wit, [*Description of Financial Transaction*], which involved the proceeds of a specified unlawful activity, that is [*Describe Specified Unlawful Activity*], with the intent to engage in conduct constituting a violation of [26 U.S.C. § 7201] [26 U.S.C. § 7206] **1** to wit, [*Describe Conduct*] and that while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is [*Funds*] **2** [*Monetary Instruments*] **3** in the amount of \$_____, represented the proceeds of some form of unlawful activity.

All in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(ii) and 2.

A True Bill.

Foreperson

United States Attorney

NOTES

- 1 Choose one or both. If both are used, set forth in the conjunctive.
- 2 Select one. Remember monetary instrument is a defined term in 1956(c)(5) whereas "funds" is undefined.
- 3 If the activity described in this paragraph is intended to cover more than one count, this last phrase can be redrafted in tabular form as follows: "That is, [*Funds*], [*Monetary Instruments*] in the amounts set forth below:

<u>Count</u>	<u>Approximate Dollar Amounts</u>
I.	\$ _____
II.	\$ _____
III.	\$ _____